

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:13-00136-01

KEVIN EUGENE PETTY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion, pursuant to 18 U.S.C. § 3582(c)(2), to reduce his sentence based on a subsequent reduction in the applicable sentencing guideline. (Doc. No. 47). On April 30, 2014, the United States Sentencing Commission submitted to Congress an amendment to the federal sentencing guidelines that reduces the guidelines applicable to drug trafficking offenses. Specifically, Amendment 782 reduces by two the offense levels assigned in the Drug Quantity Table, resulting in lower guideline ranges for most drug trafficking offenses. Amendment 782, sometimes called "drugs minus two" or the "2014 drug guidelines amendment," took effect on November 1, 2014. On July 18, 2014, the Sentencing Commission voted to give retroactive effect to Amendment 782. Amendment 782 is however subject to the following limitation: "The court shall not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later." U.S.S.G. § 1B1.10(e)(1). The court has received

materials from the United States Probation Office regarding defendant's eligibility for a sentence reduction.

Based on the foregoing, the court **DIRECTS** the Federal Public Defender to undertake representation of the defendant or, if the Office is unable to represent defendant, refer the matter to the CJA Supervising Attorney so that counsel may be appointed. The court further **DIRECTS** that, within twenty days of the entry of this Order, the United States and defendant file written memoranda addressing all relevant issues, including eligibility, whether defendant should receive a reduction, and, if so, the extent of any reduction. The Probation Office is **DIRECTED** to make its Addendum to the Presentence Report available to counsel if it has not already done so.

The Clerk is **DIRECTED** to send a copy of this Memorandum Opinion and Order to defendant, the United States Attorney, the Federal Public Defender, and the United States Probation Office.

IT IS SO ORDERED this 29th day of December, 2015.

ENTER:

David A. Faber

David A. Faber
Senior United States District Judge